

US EPA ARCHIVE DOCUMENT

**INFORMATION COLLECTION REQUEST  
FOR 40 CFR PART 51 AND 52  
PREVENTION OF SIGNIFICANT  
DETERIORATION  
AND NONATTAINMENT NEW SOURCE REVIEW REGULATORY  
REFORM**

by

Daniel Charles Mussatti, Economist  
Innovative Strategies and Economics Group  
Air Quality Management Division  
Office of Air Quality Planning and Standards  
Office of Air and Radiation  
United States Environmental Protection Agency  
**MD-12**  
RTP, North Carolina 27711

October 16, 1997

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## 1. IDENTIFICATION OF THE INFORMATION COLLECTION

### 1(a) TITLE OF THE INFORMATION COLLECTION REQUEST (ICR)

This report is entitled Information Collection Request for 40 CFR part 51 and 52 Prevention of Significant Deterioration and Nonattainment New Source Review.

### 1(b) ABSTRACT / EXECUTIVE SUMMARY

The regulations covered under this analysis are contained in parts 51 and 52 of title 40 of the *Code of Federal Regulations (CFR)* which specify requirements for the preparation, adoption, and submittal of implementation plans; and approval and promulgation of implementation plans, respectively. Specifically 40 CFR 51.166 and 52.21 specify requirements for prevention of significant deterioration (PSD) programs, and 40 CFR 51.165 specify requirements for nonattainment NSR programs.

For any existing rule, § 3507(g) of the Paperwork Reduction Act limits the amount of time that a Director may approve a collection of information to three years. Therefore, the 1992 ICR for parts 51 and 52 NSR expires in 1995. The purpose of this ICR is to update the information collection analysis for the 40 CFR parts 51 and 52 New Source Review (NSR) regulations to accommodate requirements superimposed on the rule by the Clean Air Act amendments of 1990 that became effective after the approval of the 1992 ICR.<sup>1</sup> Except for information collections in notices of proposed rules or those exempted under the emergency processing provisions of 44 U.S.C. § 3507(j), the Paperwork Reduction Act requires EPA to solicit comments on each proposed information collection, including the renewal or modification of any existing ICR. This information collection must meet specific standards before submittal to OMB. The EPA certifies that the information collection is necessary for the proper performance of EPA's functions, and that it has practical utility; is not unnecessarily duplicative of information EPA otherwise can reasonably access; and reduces, to the extent practicable and appropriate, the burden on persons providing the information to or for the EPA.

The information found in this Information Collection Request (ICR) is required for the submittal of a complete permit application for the construction or modification of all major new stationary sources of pollutants in attainment and nonattainment areas, as well as for applicable minor stationary sources of pollutants.

The Agency anticipates annualized direct costs to sources for the NSR program to be approximately \$41 million, for a net increase of \$13 million, about 46 percent more than the current 1992 ICR burden of \$28 million. These costs represent the direct administrative costs for 320 part C major NSR sources, 590 part D major NSR sources, and 19,500 minor NSR sources. On a per source basis, these costs are approximately \$33 thousand for each part C source, \$20

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1 An ICR was submitted in June 1994 for changes to the New Source Review program mandated by the 1990 Amendments to the Clean Air Act with respect to parts C and D of the Act. An ongoing effort to streamline and simplify NSR regulations is undergoing development, and the ICR for that NSR Reform rulemaking will be subject to review and comment and approval under the Paperwork Reduction Act requirements that become effective October 1, 1995.

thousand for part D sources, and \$368 for each minor NSR source. The Agency estimates the annualized cost of New Source Review to States and local agencies to be approximately \$12 million, \$3 million for part C sources, \$2 million for part D sources, and \$7 million for minor NSR sources. This constitutes an increase of \$2 million over the costs of the 1992 NSR ICR. The Agency expects Federal costs will be \$465 thousand, 146 percent more than the 1992 ICR's \$189 thousand burden cost.

This ICR addresses the record keeping and reporting burden to the Federal government, industry respondents, and State and local air pollution control agencies subject to the requirements under 40 CFR parts 51 and 52 and the Clean Air Act Amendments of 1990. The burden estimates are calculated for the three-year period beginning January 1996 and ending January 1999. The types of information collection activities addressed in this ICR are included in Appendix A.

## 2. NEED FOR AND USE OF THE COLLECTION

### 2(a) NEED / AUTHORITY FOR THE COLLECTION

Section 110 of the Clean Air Act (CAA) requires all States to submit an implementation plan which contains a preconstruction review program for all major new or modified stationary sources, including any provisions necessary for this program to meet the specific requirements of parts C and D of title I of the CAA related to major construction. Section 110 of the CAA requires that no new or modified stationary source, in conjunction with existing source emissions in the same area, can interfere with the attainment or maintenance of the National Ambient Air Quality Standards (NAAQS). This effectively means that no source can construct without securing a permit to ensure that the objectives of the 1990 CAA Amendments are met.

Part C of title I of the CAA outlines specific construction requirements for new and modified sources constructing in areas that do not violate the NAAQS. These requirements are more commonly referred to as the prevention of significant deterioration (PSD) rules, which require a prospective major new or modified source to: (1) demonstrate that the NAAQS and increments will not be exceeded, (2) ensure the application of best available control technology (BACT), and (3) protect Federal Class I areas from adverse impacts, including adverse impacts on air quality related values (AQRVs).

Similarly, part D of title I of the CAA specifies requirements for major new and modified sources constructing in areas designated as nonattainment for a NAAQS pursuant to section 107 of the CAA. The part D provisions also apply to major source permitting in the Northeast Ozone Transport Region as established under section 184 of the Act as amended. The part D rules generally require a prospective major construction project to: (1) ensure the application of controls which will achieve the lowest achievable emission rate (LAER), (2) certify that all major sources in a State owned or controlled by the same person (or persons) are in compliance with all air emissions regulations, and (3) secure reductions in existing source emissions to comply with specific statutory offset ratios and are otherwise, equal to or greater than those necessary to show attainment and maintenance of the applicable NAAQS (offsets).

### 2(b) USE / USERS OF THE DATA

Before the owner or operator of a facility can commence construction or modification of its source, it must comply with all applicable construction permit requirements. The owner or operator of a stationary source must develop or collect all relevant information not otherwise available to the PA. The PA reviews the application materials submitted by the owner or operator and either declares the permit application complete for processing or provides the owner or operator guidance on how to correct the deficiencies in the application. The applicant then collects the additional data identified by the PA in order for the permit application to be deemed "complete." Although sufficient information must be submitted by the applicant before its permit can be classified as complete, some additional clarifying information can be submitted at a later date by the applicant to assist EPA in processing the permit application.

For major sources to be constructed or modified in attainment areas, the permit application information is used by the PA to determine whether: (1) the source will cause or contribute to a violation of the NAAQS and air quality increments, (2) whether BACT will be



applied, and (3) whether the source's emissions will adversely affect any Federal Class I areas, including AQRVs in these areas. For major sources to be constructed or modified in nonattainment areas, the permit application information is used by the PA to (1) determine whether the source will apply LAER, (2) determine whether the source will achieve the required emissions offsets, and (3) determine whether the source has demonstrated that all other of its major sources in the same State are in compliance with all applicable air emissions regulations.

Once the application is complete, the PA makes a preliminary determination regarding the approvability of the permit application, and makes this determination together with the application and supporting information available to the public for at least 30 days. The PA must then respond to public comments and take action on the final permit. The final permit must be acted upon by the PA within one year of receipt of a complete application.

In addition, the public and other permit applicants may use some of the data collected. EPA operates a RACT/BACT/LAER Clearinghouse (RBLC) which contains many BACT and LAER determinations to aid applicants and reviewers in identifying reasonable and available control technologies. The Clean Air Act amendments require that the BACT or LAER information in each permit must be gathered by the PA and submitted for entry into the RBLC database as a reference for making future control technology determinations. Information on BACT and LAER determinations is also available to the public through the National Technical Information Service.

### 3. THE RESPONDENTS AND THE INFORMATION REQUESTED

**TABLE 3-1  
PRIMARY NSR RESPONDENTS BY SIC CODE**

Steam Electric Plants	491
Petroleum Refining	291
Chemical Processes	281
Natural Gas Transport	492
Pulp and Paper	261 and 262
Automobile Manufacturing	371
Pharmaceuticals	283

#### 3(a) RESPONDENTS / STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODES

Table 3-1 lists the three digit SIC groups the Agency expects will comprise the majority of respondents affected by New Source Review. These categories were chosen because of their historic relative incidence in seeking NSR permits, as established in prior ICRs and confirmed by a nationwide air inventory performed by the Agency in 1986-87. These industries have been used as the basis for impact analysis since that inventory.

#### 3(a)(1) ESTIMATION OF THE NUMBER OF SOURCES SUBJECT TO NEW SOURCE REVIEW

Four ICRs have been prepared for previous NSR rulemakings, the original NSR ICR of July 1985, an update for PM-10 done in April 1988, another update for nitrogen dioxide (NO<sub>x</sub>) increments in October 1988, and an ICR for the CMA Exhibit A, written in July 1989. The 1989 CMA Exhibit A ICR serves as the baseline for this ICR, modified to include those changes resulting from the 1990 CAA requirements and such new information about the information collection process that may have been gathered since the last ICR update.

Table 3-2 displays the changes in applicable major and minor NSR sources since the 1989 CMA Exhibit A ICR. The 1989 CMA Exhibit A ICR estimated 20,370 major and minor NSR sources, of which 370 were considered major under parts C (300 sources) and D (70 sources). Statutory changes required by the CAA Amendments of 1990 increased the number of major sources to which parts C (20 sources) and D (520 sources) applied. Overall, the 1990 CAA requirements for parts C and D result in a net increase of 40 applicable sources.<sup>2</sup> The number of

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<sup>2</sup> Currently, streamlining efforts are under way for NSR. These "NSR Reform" revisions were completed in 1995 and will reduce the number of part C and D applicable sources to 231 and 424 respectively. An ICR for NSR Reform will follow this ICR update.

applicable minor sources decreased slightly under the 1990 CAA requirements, to 19,500. The number of applicable sources on the bottom line of Table 3-2 represents the analytical baseline used for the determination of source, State and local agency, and Federal burden and costs for this ICR update.

**TABLE 3-2  
DETERMINATION OF NSR SOURCE BASELINE**

ITEM	PSD	Part D	MINOR	TOTAL
1989 CMA Exhibit A Baseline	300	70	20,000	20,370
Changes Due to 1990 CAA Requirements	20	520	(500)	40
<b>BASELINE FOR 1995 NSR ICR UPDATE</b>	<b>320</b>	<b>590</b>	<b>19,500</b>	<b>20,410</b>

### 3(b) INFORMATION REQUESTED

#### 3(b)(1) DATA ITEMS

Tables A-1, A-2, and A-3 of Appendix A summarize the respondent and State data and information requirements which owners or operators of major sources must include in PSD and nonattainment NSR construction permit applications. Appendix A also includes the appropriate *CFR* references for the data and information requirements which pertain to the requirements under part 51 which govern the way States implement NSR programs. For each reference in part 51, corresponding language will be found in part 52. Typically, owners or operators of minor sources submit information to demonstrate that they are exempt from the major source construction permit requirements; therefore, these owners or operators will not have to comply with all of the requirements shown in Tables A-1 and A-2.

#### 3(b)(2) RESPONDENT ACTIVITIES

Table 6-1 lists the activities, burden, and estimated costs of the NSR activities required under 40 CFR parts 51 and 52. These activities include three broad categories: Preparation and Planning; Data Collection and Analysis; and Permit Application. Within each of these categories, further subdivision of a source's activities can be found. The Agency anticipates it will take 320 part C major sources approximately 711 hours each, or a total of 228 thousand hours to complete an NSR application. Each of the 590 part D NSR sources will require 445 hours, or a total of 263 thousand hours each year to complete part D NSR applications. Each minor source will require 8 hours to complete its NSR application requirements, for a total of 156 thousand hours.

#### 4. THE INFORMATION COLLECTED -- AGENCY ACTIVITIES, COLLECTION METHODOLOGY, AND INFORMATION MANAGEMENT

##### 4(a) STATE AND LOCAL AGENCY ACTIVITIES

Table A-3 summarizes the data and information requirements which State and local agencies must meet. Table A-3 also shows the part 51 references for the data and information requirements specified. The appropriate language from the Act, 40 *CFR* 51 and 40 *CFR* 52 for State and local agencies is included at the end of Appendix A, as well.

##### 4(b) COLLECTION METHODOLOGY AND MANAGEMENT

The owners and operators of new or modified stationary sources affected by the NSR regulations will be responsible for submitting construction permit applications to the PA. The PA will log in permit applications, store applications in a central filing location at the PA, notify the FLM (if applicable), transmit copies of each application to EPA, and enter summary data for each application into the EPA's NSR BBS. Once construction permits have been approved, the reviewing authority will submit control technology information to EPA's RBLC database. Because the construction permits and associated control technology determinations are performed on a case-by-case basis, the regulations will not contain additional forms which owners or operators will have to fill out and submit to the PA. States will likely use their current permit application forms for NSR purposes.

Qualified personnel who work for the PA will perform permit reviews and check the quality of data submitted by the applicant on a case-by-case basis. The applicant will be required to submit information on how the data were obtained (*e.g.*, indicate whether emissions data were obtained through the use of emissions factors or test data) and how calculations were performed. The PA personnel will check data quality by reviewing test data and checking engineering calculations, and by reviewing control technology determinations for similar sources. The RBLC and other sources will be reviewed for information on control technology determinations made for sources similar to the sources included in the permit application. Confidential information submitted by the applicant will be handled by the permit reviewing authority's confidential information handling procedures. The public will be provided the opportunity to review a permit application, including FLM findings, by obtaining a copy from the permit reviewing authority or by attending the public hearing. The public can also find summary data on all applicants in the NSR BBS. The NSR regulations will not require information through any type of survey.

Table 6-2 lists the State and local agency burden and costs associated with the major NSR permitting rule, as modified by the proposed Reform changes of this analysis. As is the case with the respondents, State and local agencies who will approve NSR permits will only have start-up costs for any given permit. Consequently, while the State or local agency will approve many permits each year, the annual burden for that function is simply equal to the burden found in any one year.

## 5. REGULATORY FLEXIBILITY, ENVIRONMENTAL EQUITY, AND OTHER COLLECTION CRITERIA

### 5(a) SMALL ENTITY FLEXIBILITY

The Regulatory Flexibility Act requires regulatory agencies, upon regulatory action, to prepare several documents determined by, among other things, the attributes of the regulatory action being taken. These include: (1) a Certification, (2) an Initial Regulatory Flexibility Analysis (IRFA), and (3) a Final Regulatory Flexibility Analysis (FRFA). In addition, the agencies must assure through various mechanisms that small entities are given an opportunity to participate in the rulemaking process. The Environmental Protection Agency has revised these guidelines such that, for any new rule subject to the Regulatory Flexibility Act, a regulatory flexibility analysis is required if the rule will have any economic impact, however small, on any small entities that are subject to the rule. This section of the report provides an analysis to assist EPA in completing an IRFA for the proposed NSR Reform regulations. An initial regulatory flexibility screening analysis showed that the proposed changes would not have any adverse impact on small entities.

#### 5(a)(1) METHODOLOGY

For ICR approval, the Agency must demonstrate that it "has taken all practicable steps to develop separate and simplified requirements for small businesses and other small entities" (5 CFR 1320.6(h)). The term "small entities" includes small businesses, small governmental jurisdictions, and small organizations. Any disproportional impact from the NSR regulations will be incurred by major sources subject to part C or D requirements. The Economic Impact Analyses (EIAs) which accompanied the 1995 NSR Reform rulemaking and the 1995 NSR part C and D CAA mandated changes included a Regulatory Flexibility Act Screening Analysis (RFASA) which encompassed the entire universe of applicable major sources for this ICR. Based on the methodology incorporated in those NSR EIAs, the Agency believes that the current part 51 and 52 NSR regulations do not constitute a disproportionate burden on small entities.

#### 5(a)(2) MEASURES TO AVERT IMPACTS ON SMALL ENTITIES

The EPA may exempt one or several source categories, in whole or in part, from the requirements under title V if it is determined that compliance with these requirements would be "impracticable, infeasible, or unnecessarily burdensome". However, the Agency may, under no circumstances, exempt a major source of air pollution. Since the impacts of NSR regulations which may impact small entities are predominantly to major sources, there is little room for regulatory flexibility to avert the impact of the proposed rulemaking on small entities through exemption.

### 5(a)(3) MEASURES TO MITIGATE IMPACTS ON SMALL ENTITIES

Due to the major source characteristic of all NSR permitted units, only one option is available to mitigate the disproportionate impact of the NSR Reform rules on small entities. Implementation of small business stationary source technical and environmental compliance assistance programs as called for in section 507 of the Act (at the Federal and State levels) can reduce the reporting burden of small entities which are subject to major NSR. These programs may significantly alleviate the economic burden on small sources by establishing: 1) programs to assist small businesses with determining what Act requirements apply to their sources and when they apply, and 2) guidance on alternative control technology and pollution prevention for small businesses.

### 5(b) COLLECTION SCHEDULE

The NSR ICR update must be approved before October 1, 1995. Respondent schedules under the regulations of parts 51 and 52 depend on construction schedules. In general, each affected source is required to submit an application as a prerequisite to receiving a construction permit. Preparation of a construction permit application is a one-time-only activity for each project involving construction of a new source or modification of an existing source. The NSR permit regulations will not require periodic reporting or surveys.

### 5(c) ENVIRONMENTAL JUSTICE CONSIDERATIONS

#### 5(c)(1) PURPOSE OF ANALYSIS

Executive Order 12898, dated February 11, 1994, requires that each Federal agency make achieving environmental justice (EJ) part of its mission. To do this, agencies are required to identify and address disproportionately high adverse health or environmental effects of agency programs on minority and low-income populations. As part of this plan agencies must consider EJ issues when new rules are proposed. This section of the report provides support to EPA in its efforts to address EJ issues related to NSR regulations. EPA solicited guidance from the Agency's Office of Environmental Equity (OEE); the Office of Policy, Planning and Evaluation (OPPE); and the Office of Solid Waste and Emergency Response (OSWER) on a general set of issues which should be considered in preparation of this report. These issues included descriptive statistics, industrial concerns, geographic concerns, and mitigation strategies.

The data in this section show that in many of the nonattainment areas affected by NSR, housing density is considerably higher than the State and national averages. When subsets of these areas correspond to areas with disproportionately high minority or low-income populations the agency should be especially sensitive to the potential for adverse impacts on minorities and lower income groups.



## 5(c)(2) MITIGATION STRATEGIES

As described above, the primary effects of the NSR regulations relevant to consideration of EJ will not be apparent when considered at the national level. The most significant EJ concerns arise at the local level, when the siting of a source in an area would have disproportionate effects on minority or low-income populations. This analysis provides an effective mechanism for beginning to address EJ concerns related to NSR permit decisions nationwide. While the Clean Air Act Amendments rulemaking does not include specific strategies to mitigate the disproportionate impact of NSR permitting, its predecessors did include such considerations in the form of increased opportunities for personal empowerment through the public comment process.

## 5(d) NONDUPLICATION

The information collection activities required under the NSR regulations are not routinely performed elsewhere by EPA. However, similar information may be collected during the development of certain environmental impact statements (EIS). In such cases, regulations and policies require that information collected for EIS's and NSR programs be coordinated to the maximum extent possible so as to minimize duplicating the collection of data. Some of the required information also may already be available from States or other Federal agencies. However, even when these data are available, they are not generally adequate to address completely the relevant NSR requirements.

## 5(e) CONSULTATIONS

Extensive public participation took place in the development of the original NSR regulations which addressed the basic information collection requirements. Implementation of the changes mandated by the 1990 Act Amendments also involved extensive public participation, in that public review and comment are required at both State and Federal levels for the adoption and Federal Approval of the resultant State Implementation Plan requirements. This ICR was further informed by comments from the Clean Air Act Advisory Committee (CAAAC) on the 1990 Clean Air Act Amendments and the NSR Reform Subcommittee of the CAAAC which was composed of Federal, State, and local agencies, environmental groups, and industry representatives.

## 5(f) EFFECTS OF LESS FREQUENT COLLECTION

The information required to be submitted by each permit applicant would be submitted on a one-time-only basis. When an existing source wishes to modify or expand a facility already in operation, most of the information submitted would pertain to the new construction.

## 5(g) GENERAL GUIDELINES

The record keeping and reporting requirements contained in the NSR regulations do not exceed any of the Paperwork Reduction Act guidelines contained in 5 CFR 1320.6.

## 5(h) CONFIDENTIALITY AND SENSITIVE QUESTIONS

### 5(h)(1) CONFIDENTIALITY

Confidentiality is not an issue for this rulemaking. In accordance with title V, the information that is to be submitted by sources as a part of their permit application and update; applications for revisions and renewals is a matter of public record. To the extent that the information required for the completeness of a permit is proprietary, confidential, or of a nature that it could impair the ability of the source to maintain its market position, that information is collected and handled according to EPA's policies set forth in title 40, chapter 1, part 2, subpart B--Confidentiality of Business Information (see 40 CFR 2; 41 FR 36902, September 1, 1976; amended by 43 FR 39999, September 8, 1978; 43 FR 42251, September 28, 1978; 44 FR 17674, March 23, 1979).

### 5(h)(2) SENSITIVE QUESTIONS

The consideration of sensitive questions, (i.e., sexual, religious, personal or other private matters), is not applicable to this rulemaking. The information gathered for purposes of establishing an operating permit for a source do not include personal data on any owner or operator.



## 6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION

### 6(a) ESTIMATING RESPONDENT BURDEN AND COSTS

Table 6-1 displays the respondent burden and costs associated with the NSR program as codified in 40 CFR parts 51 and 52. Typically, the annualized cost for Table 6-1 would be established as the discounted net present value of the stream of costs that would occur over the

**TABLE 6-1  
RESPONDENT BURDEN AND COSTS**

Activity	Units	Hours Per Unit	Total Hours	Annual Cost *
<b>I. Part C (PSD)</b>				
A. Preparation and Planning				
Determination of Compliance Requirements	320	86	27,520	\$1,238
Obtain guidance on Data Needs	320	86	27,520	\$1,238
Preparation of BACT Engineering Analysis	320	86	27,520	\$1,238
B. Data Collection and Analysis				
Air Quality Modeling	320	202	64,640	\$2,909
Determination of Impact on Air Quality Related Values	320	50	16,000	\$720
Pre-construction Air Quality Monitoring	320	50	16,000	\$720
Post-construction Air Quality Monitoring	320	50	16,000	\$720
C. Permit Application				
Preparation and Submittal of Permit Application	320	49	15,680	\$706
Public Hearings	320	33	10,560	\$53
Revisions to Permit	320	16	5,120	\$230
<b>D. TOTAL</b>		<b>711</b>	<b>227,520</b>	<b>\$10,238</b>
<b>II. PART D (Nonattainment)</b>				
A. Preparation and Planning				
Determination of Compliance Requirements	590	75	44,250	\$1,991
Obtain guidance on Data Needs	590	75	44,250	\$1,991
B. Data Collection and Analysis				
Preparation of LAER Engineering Analysis	590	20	11,800	\$531
Demonstrate Offsets	590	40	23,600	\$1,062
Prepare Analysis of Alternative Sites, Processes, etc.	590	60	35,400	\$1,593
Air Quality Modeling	590	100	59,000	\$2,655
C. Permit Application				
Preparation and Submittal of Permit Application	590	37	21,830	\$982
Public Hearings	590	25	14,750	\$664
Revisions to Permit	590	12	7,080	\$319
<b>D. TOTAL</b>		<b>445</b>	<b>262,550</b>	<b>\$11,815</b>
<b>III. MINOR NSR</b>				
Prepare and Submit Permit Application	19,500	8	156,000	\$7,020
<b>III. TOTALS</b>			<b>506,070</b>	<b>\$29,073</b>

\* All costs are in thousands of 1994 dollars.

life of the permit program or the ICR, whichever is shorter. However, in the case of NSR, there are only up-front costs. All reporting and monitoring costs associated with the implementation of a source's pollution management plan are incorporated into the requirements of the NSPS, Enhanced Monitoring, and the appropriate SIP. Therefore, the costs of the NSR rule for the second and third years of the ICR, as modified by this proposal, are zero, and the net present value of the costs of the NSR rules are equal to the cost of the first year outlay. Additionally, since the cost of NSR permitting is incurred "up front", it is a sunk cost to the source and does not require amortization over the life of the source. Therefore, the annualized cost of a source's NSR permit application is equal to the first year outlay as well.

Respondents include owners or operators of major stationary sources which will be subject to the construction permit requirements under EPA's NSR regulations. The annual respondent burden associated with major source PSD and nonattainment NSR construction permit activities is \$22 million. The annual minor NSR respondent burden for construction burden activities adds an additional \$7 million to that figure, for a total of \$29 million in respondent burden for the current NSR program codified under 40 CFR parts 51 and 52. These costs are determined by multiplying the estimated number of hours for each burden category by \$45.00 per hour. This hourly rate is the same as that used in prior NSR ICRs and both part 70 and part 71 operating permit ICRs, and represents a mixture of in-house and contractor effort. This analysis concludes the current New Source Review permitting program does not result in a significant cost to society, as defined under Executive Order (EO) 12866, section 3(f)(1).

#### 6(b) ESTIMATING THE STATE AND LOCAL AGENCY BURDEN AND COST

Table 6-2 displays the State and Local Agency burden and costs associated with the NSR program as codified in 40 CFR parts 51 and 52. As was found for the respondent costs, the annualized cost for Table 6-2 would normally be established as the discounted net present value of the stream of costs that would occur over the life of the permit program or the ICR, but for NSR, there are only up-front costs. The State and Local Agency costs of the NSR rule for the second and third years of the ICR, as modified by this proposal, are zero, and the net present value of the costs of the NSR package is equal to the cost of the first year outlay. Because the cost of NSR permitting occurs "up front", it is a sunk cost to the source and does not require amortization over the life of the source. Therefore, the annualized State and Local Agency costs for NSR are the same as the initial outlay as well. The annual State and Local Agency burden cost associated with major source PSD and nonattainment NSR construction permit activities is \$5 million. The annual minor NSR State and local agency cost for construction activities adds an additional \$7 million to that figure, for a total of \$12 million in State and local agency burden costs for the current NSR program codified under 40 CFR parts 51 and 52. These costs are determined by multiplying the estimated number of hours for each burden category by \$34.00 per hour. This hourly rate is the same as that used in prior NSR ICRs and both part 70 and part 71 operating permit ICRs, and represents a mixture of in-house and contractor effort. This analysis concludes the current New Source Review permitting program does not result in a significant cost to society, as defined under Executive Order (EO) 12866, section 3(f)(1).

**TABLE 6-2**  
**STATE AND LOCAL AGENCY BURDEN AND COSTS**

	Activity	Units	Hours/ Unit	Total Hours	Cost *
<b>I. PART C (PSD)</b>					
	A. Attend Preapplication Meetings	320	36	11,520	\$392
	B. Answer Respondent Questions	320	20	6,400	\$218
	C. Log In and Review Data Submissions	320	16	5,120	\$174
	D. Request Additional Information	320	8	2,560	\$87
	E. Analyze for and Provide Confidentiality Protection	320	24	7,680	\$261
	F. Prepare Completed Applications for Processing	320	32	10,240	\$348
	G. File and Transmit Copies	320	8	2,560	\$87
	H. Prepare Preliminary Determination	320	24	7,680	\$261
	I. Prepare Notices for and Attend Public Hearings	320	40	12,800	\$435
	J. Application Approval	320	40	12,800	\$435
	K. Notification of Applicant of PA Determination	320	8	2,560	\$87
	L. Submittal on Information to BACT / LAER to RBLC	320	16	5,120	\$174
	M. Total		272	87,040	\$2,959
<b>II. PART D (Nonattainment)</b>					
	A. Attend Preapplication Meetings	590	7	4,130	\$140
	B. Answer Respondent Questions	590	10	5,900	\$201
	C. Log In and Review Data Submissions	590	8	4,720	\$160
	D. Request Additional Information	590	4	2,360	\$80
	E. Analyze for and Provide Confidentiality Protection	590	4	2,360	\$80
	F. Prepare Completed Applications for Processing	590	12	7,080	\$241
	G. File and Transmit Copies	590	4	2,360	\$80
	H. Prepare Preliminary Determination	590	8	4,720	\$160
	I. Prepare Notices for and Attend Public Hearings	590	18	10,620	\$361
	J. Application Approval	590	16	9,440	\$321
	K. Notification of Applicant of PA Determination	590	2	1,180	\$40
	L. Submittal on Information to BACT / LAER to RBLC	590	16	9,440	\$321
	M. Total	590	109	64,310	\$2,187
<b>III. MINOR NSR</b>					
	Preparation of Determination and Notification of Applicant	19500	10	195,000	\$6,630
<b>IV. TOTALS</b>				346,350	\$11,776
* All costs are in thousands of 1994 dollars.					

### 6(c) ESTIMATING AGENCY BURDEN AND COST

EPA Regional Offices typically review major NSR permits. The EPA expects its review of NSR permits to consist of the tasks listed in Table 6-3, with a total burden of approximately 14 thousand hours at a cost of \$465 thousand dollars. The cost estimate uses a wage and overhead rate of \$34 / hour (based on a Federal wage rate at the Grade 11, step 3 level for the

1994 pay schedule, adjusted for overhead and other appropriate costs.) This wage rate is consistent with previous NSR and operating permits analyses.

**TABLE 6-3  
FEDERAL BURDEN AND COSTS**

Activity	Hours		Total Hours	Total Cost *
	Units	Per Unit		
A. Review and Verify Applicability Determination	910	2	1,820	\$62
B. Review Control Technology Determination	910	3	2,730	\$91
C. Evaluate Offsets	910	1	910	\$31
D. Evaluate Air Quality Modeling	910	4	3,640	\$124
E. Evaluate Alternative and Secondary Impact Analysis	910	2	1,820	\$62
F. Evaluate Class I Area Analysis	910	2	1,820	\$62
G. Administrative Tasks	910	1	910	\$31
<b>H. TOTAL</b>		<b>15</b>	<b>13,650</b>	<b>\$465</b>

\* All Costs are in thousands of 1994 dollars

#### 6(d) REASONS FOR CHANGE IN BURDEN

The purpose of this rulemaking is to update the existing ICR for New Source Review as codified in 40 CFR parts 51 and 52 and as influenced by the 1990 Act Amendments. The Paperwork Reduction Act requires an update to an existing ICR every three years to account for new information and changes in the rule which may have taken place within the three year period. This updates indicates that changes to the NSR program since the 1992 ICR update constitute an increase in burden and costs to sources, States and local agencies, and the Federal government. This is due to certain requirements of the 1990 CAA part C and D requirements which States were to implement regardless of the timing of commensurate regulatory changes. In particular these requirements lowered the nonattainment- area major source thresholds for sources of Ozone precursors and PM-10. Consequently, some sources that were considered minor for purposes of new source review under the 1992 ICR have been re-designated as major. For industry respondents, the burden estimated in this ICR is 7 percent higher than in the part C ICR baseline. For part D sources, the burden increases by 743 percent. There is a commensurate decrease of 500 units subject to minor NSR as a result of applicability changes imposed by the 1990 CAA requirements. The Agency anticipates respondents will incur an annual increase in permitting costs of \$11 million due to these mandated changes, for a total cost of \$29 million per year.

State/local agencies receive equiproportional changes. Applicability changes imposed by the 1990 CAA Amendments increase costs to States and local agencies for part C NSR sources by approximately 7 percent per year over the costs of the pre-1990 regulations (1992 ICR), from \$2.8 million per year to \$3 million. Part D source costs increase by 744 percent, from .25 million annually to \$2.2 million.

The Agency expects the Federal burden to increase as well. Under the classification scheme prior to the 1990 CAA Amendments, the Agency, primarily the Regions, reviewed 370 part C and D major source applications. The current part C and D definitions as established by the 1990 CAA Amendments increases the number of major source applications by 470 per year, for an increase in Agency burden and costs of 146 percent, or \$276 thousand per year.

## 6(e) BOTTOM LINE BURDEN HOURS AND COSTS / BURDEN TABLES

**TABLE 6-4**  
**NSR PROGRAM REFLECTING THE 1990 CLEAN AIR ACT AMENDMENTS**

	Total			Per Unit		
	Part C (PSD)	Part D (Non-attainment)	Minor NSR	Part C (PSD)	Part D (Non-attainment)	Minor NSR
<b>Number of Sources</b>	<b>320</b>	<b>590</b>				
<b>Burden Hours</b>						
<b>Respondents</b>	227,520	262,550	156,000	711	445	8
<b>State / Local</b>	87,040	64,310	195,000	272	109	10
<b>Federal</b>	4,800	8,850	0	15	15	0
<b>Annualized Cost *</b>						
<b>Respondents</b>	\$10,599	\$11,816	\$7,020	\$33.12	\$20.03	\$0.36
<b>State / Local</b>	\$2,959	\$2,187	\$6,630	\$9.25	\$3.71	\$0.34
<b>Federal</b>	\$163	\$301	\$0	\$0.51	\$0.51	\$0.00

\* In thousands of 1994 dollars.

## 6(f) BURDEN STATEMENT

The information collection requirements of the current NSR program have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 et. seq. An ICR document has been prepared by the EPA and a copy may be obtained from Sandy Farmer, Information Policy Branch (2136), U.S. Environmental Protection Agency, 401 M St., Washington, D.C. 20460, (202) 260-2740. Request ICR No. 1713.01.

The average annual burden to respondents for this collection of information is approximately 506 thousand hours per year for permitted units, or 711 hours for each part C PSD source (227,520 total burden hours) and 445 hours for each part D nonattainment source (262,550 total burden hours). This includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Group Leader, Integrated Implementation Group (**MD-12**), U.S. Environmental Protection Agency, RTP, North Carolina, 27711 marked, "Attention: Desk Officer for the EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

**APPENDIX A**  
**INFORMATION REQUIREMENTS**

**TABLE A-1. RESPONDENT DATA AND INFORMATION REQUIREMENTS FOR  
PREPARING PART C (PSD) CONSTRUCTION PERMITS**

<b>Requirements</b>	<b>Current Regulation Reference</b>
Description of the nature, location, design capacity, and typical operating schedule	40 CFR 51.166(n)(2)(I)
Detailed schedule for construction	40 CFR 51.166(n)(2)(ii)
Description of continuous emission reduction system, emission estimates, and other information needed to determine that BACT is used	40 CFR 51.166(n)(2)(iii)
Air quality impact, meteorological, and topographical data	40 CFR 51.166(n)(3)(I)
Nature and extent of, and air quality impacts of general commercial, residential, industrial, and other growth in area of source	40 CFR 51.166(n)(3)(ii)
Use of air quality models to demonstrate compliance with NAAQS and increment	40 CFR 51.166(k)&(l)
A demonstration that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification	Not a current requirement; (Proposed as a new requirement)
Information necessary to determine impact on AQRVs in Class I areas	40 CFR 51.166(n)(4)
Air quality monitoring data	40 CFR 51.166(m)
Impairment of visibility, soils, and vegetation	40 CFR 51.166(o)(1)
Air quality impact resulting from general commercial, residential, industrial, and other growth associated with source	40 CFR 51.166(o)(2)
Written notice of proposed relocation from portable source	40 CFR 51.166(I)(4)(iii)(d)
Description of the location, design construction, and operation of building, structure, facility, or installation	40 CFR 51.160(c)(2)
Description of the nature and amounts of emissions to be emitted	40 CFR 51.160(c)(1)
Description of the air quality data and dispersion or other air quality modeling used	40 CFR 51.160(f)
Sufficient information to ensure attainment and maintenance of NAAQS	40 CFR 51.160(c)-(e) 40 CFR 51.161-163



**TABLE A-2. RESPONDENT DATA AND INFORMATION REQUIREMENTS  
FOR PREPARING PART D (NONATTAINMENT NSR)  
CONSTRUCTION PERMITS**

<b>Requirements</b>	<b>Proposed Regulation Reference</b>
Documentation that LAER is being applied	40 CFR 51.165(d)(2)
Documentation that all sources owned or operated by same person are in compliance	40 CFR 51.165(h)(1)
Documentation that sufficient emissions reductions are occurring to comply with specific offset requirements and to ensure RFP	40 CFR 51.165(e)
Documentation that benefits of proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification	CAAA _____
Description of the location, design construction, and operation of building, structure, facility, or installation	40 CFR 51.160(c)(2)
Description of the nature and amounts of emissions to be emitted	40 CFR 51.160(c)(1)
Description of the air quality data and dispersion or other air quality modeling used	40 CFR 51.160(f)
Sufficient information to ensure attainment and maintenance of NAAQS	40 CFR 51.160(c)-(e) 40 CFR 51.161 40 CFR 51.162 40 CFR 51.163

**TABLE A-3. STATE DATA AND INFORMATION REQUIREMENTS**

<b>Requirement</b>	<b>Proposed Regulation Reference</b>
Early FLM notification and opportunity to participate in meetings	40 CFR 51.166(p)(1)(ii)
Submission of all permit applications to EPA	40 CFR 51.166(q)(1)
Submission of notice of application, preliminary determination, degree of increment consumption, and opportunity for public comment	40 CFR 51.166(q)(2)(iv)
Submission to FLM of permit applications	40 CFR 51.166(p)(1)
Submission of written request to exempt sources from review	40 CFR 52.21(I)(4)(vi)
Written request for use of innovative control technology	40 CFR 51.166(s)
Establishing and operating a permitting program for all new sources	40 CFR 51.160
Provide notice to EPA of all permits	40 CFR 51.161(d)
Provide for public comment for all NSR permits	40 CFR 51.161

## SEC. 503. PERMIT APPLICATIONS.

"(a) APPLICABLE DATE.-Any source specified in section 502(a) shall become subject to a permit program, and required to have a permit, on the later of the following dates-

"(1) the effective date of a permit program or partial or interim permit program applicable to the source; or

"(2) the date such source becomes subject to section 502(a).

"(b) COMPLIANCE PLAN.-(1) The regulations required by section 502(b) shall include a requirement that the applicant submit with the permit application a compliance plan describing how the source will comply with all applicable requirements under this Act. The compliance plan shall include a schedule of compliance, and a schedule under which the permittee will submit progress reports to the permitting authority no less frequently than every 6 months.

"(2) The regulations shall further require the permittee to periodically (but no less frequently than annually) certify that the facility is in compliance with any applicable requirements of the permit, and to promptly report any deviations from permit requirements to the permitting authority.

"(c) DEADLINE.-Any person required to have a permit shall, not later than 12 months after the date on which the source becomes subject to a permit program approved or promulgated under this title, or such earlier date as the permitting authority may establish, submit to the permitting authority a compliance plan and an application for a permit signed by a responsible official, who shall certify the accuracy of the information submitted. The permitting authority shall approve or disapprove a completed application (consistent with the procedures established under this title for consideration of such applications), and shall issue or deny the permit, within 18 months after the date of receipt thereof, except that the permitting authority shall establish a phased schedule for acting on permit applications submitted within the first full year after the effective date of a permit program (or a partial or interim program). Any such schedule shall assure that at least one-third of such permits will be acted on by such authority annually over a period of not to exceed 3 years after such effective date. Such authority shall establish reasonable procedures to prioritize such approval or disapproval actions in the case of applications for construction or modification under the applicable requirements of this Act.

"(d) TIMELY AND COMPLETE APPLICATIONS.-Except for sources required to have a permit before construction or modification under the applicable requirements of this Act, if an applicant has submitted a timely and complete application for a permit required by this title (including renewals), but final action has not been taken on such application, the source's failure to have a permit shall not be a violation of this Act, unless the delay in final action was due to the failure of the applicant timely to submit information required or requested to process the application. No source required to have a permit under this title shall be in violation of section 502(a) before the date on which the source is required to submit an application under subsection (c).

"(e) COPIES; AVAILABILITY.-A copy of each permit application, compliance plan (including the schedule of compliance), emissions or compliance monitoring report, certification, and each permit issued under this title, shall be available to the public. If an applicant or permittee is required to submit information entitled to protection from disclosure under section 114(c) of this Act, the applicant or permittee may submit such information separately. The requirements of

section 114(c) shall apply to such information. The contents of a permit shall not be entitled to protection under section 114(c).

"SEC. 504. PERMIT REQUIREMENTS AND CONDITIONS.

"(a) CONDITIONS.-Each permit issued under this title shall include enforceable emission limitations and standards, a schedule of compliance, a requirement that the permittee submit to the permitting authority, no less often than every 6 months, the results of any required monitoring, and such other conditions as are necessary to assure compliance with applicable requirements of this Act, including the requirements of the applicable implementation plan.

"(b) MONITORING AND ANALYSIS.-The Administrator may by rule prescribe procedures and methods for determining compliance and for monitoring and analysis of pollutants regulated under this Act, but continuous emissions monitoring need not be required if alternative methods are available that provide sufficiently reliable and timely information for determining compliance. Nothing in this subsection shall be construed to affect any continuous emissions monitoring requirement of title IV, or where required elsewhere in this Act.

"(c) INSPECTION, ENTRY, MONITORING, CERTIFICATION, AND REPORTING.-Each permit issued under this title shall set forth inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions. Such monitoring and reporting requirements shall conform to any applicable regulation under subsection (b). Any report required to be submitted by a permit issued to a corporation under this title shall be signed by a responsible corporate official, who shall certify its accuracy.

*40 CFR 70.5(c) Standard applications form and required information.* The State program under this part shall provide for a standard application form or forms. Information as described below for each emissions unit at a part 70 source shall be included in the application. The Administrator may approve as part of a State program a list of insignificant activities and emissions levels which need not be included in permit applications. However, for insignificant activities which are exempted because of size or production rate, a list of such insignificant activities must be included in the application. An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required under the schedule approved pursuant to §70.9 of this part. The permitting authority may use discretion in developing application forms that best meet program needs and administrative efficiency. The forms and attachments chosen, however, shall include the elements specified below:

(1) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.

(2) A description of the source's processes and products (by Standard Industrial Classification Code) including any associated alternative scenario identified by the source.

(3) The following emission related information:

(I) All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants. A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under this paragraph (c) of this section. The permitting authority shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under the fee schedule approved pursuant to §70.9(b) of this part.

(ii) Identification and description of all points of emissions described in paragraph (c)(3)(I) of this section in sufficient detail to establish the basis for fees and applicability of requirements of the Act.

(iii) Emissions rate in tpy and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method.

(iv) The following information to the extent it is needed to determine to regulate emissions: Fuels, fuel use, raw materials, production rates, and operating schedules.

(v) Identification and description of air pollution control equipment and compliance monitoring devices or activities.

(vi) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the part 70 source.

(vii) Other information required by any applicable requirement (including information related to stack height limitations developed pursuant to section 123 of the Act.)

(viii) Calculations on which the information on paragraphs (c)(3)(I) through (c)(3)(vii) of this section is based.

(4) The following air pollution control requirements:

(I) Citation and description of all applicable requirements, and

(ii) Description of or reference to any applicable test method for determining compliance with each applicable requirement.

(5) Other specific information that may be necessary to implement and enforce other applicable requirements of the Act or of this part or to determine the applicability of such requirements.

(6) An explanation of any proposed exemptions from otherwise applicable requirements.

(7) Additional information as determined to be necessary by the permitting authority to define alternative operating scenarios identified by the source pursuant to § 70.6(a)(9) of this part or to define permit terms and conditions implementing § 70.4(b)(12) or § 70.6(a)(10) of this part.

(8) A compliance plan for all part 70 sources that contains all the following:

(I) A description of the compliance status of the source with respect to all applicable requirements.

(ii) A description as follows:

(A) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(B) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.

(c) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

(iii) A compliance schedule as follows:

(A) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(B) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

(c) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to and shall not sanction noncompliance with, the applicable requirements on which it is based.

(iv) A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation.

(v) The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under title IV of the Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(9) Requirements for compliance certification, including the following:

(I) A certification of compliance with all applicable requirements by a responsible official consistent with paragraph (d) of this section and section 114(a)(3) of the Act;

(ii) A statement of methods used for determining compliance, including a description of monitoring, record keeping, and reporting requirements and test methods;

(iii) A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the permitting authority; and

(iv) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.

(10) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under title IV of the Act.

(d) Any application form, report, or compliance certification submitted pursuant to these regulations shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this part shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.